

CITY OF ESTHERVILLE, IOWA



2017 SUBDIVISION REGULATIONS ORDINANCE

VOL. 2 OF THE ESTHERVILLE
CODE OF ORDINANCES



PREPARED WITH PLANNING ASSISTANCE FROM
NORTHWEST IOWA PLANNING &
DEVELOPMENT COMMISSION

ACKNOWLEDGEMENTS

CITY OF ESTHERVILLE SUBDIVISION REGULATIONS

Prepared with Planning & Technical Assistance by:

Northwest Iowa Planning & Development Commission
217 West 5th Street, Box 1493, Spencer, Iowa 51301
(712) 262-7225 1-855-262-7225

In Cooperation with and Support from the:

City of Estherville, Iowa
Mayor Kenny Billings
Penny Clayton, City Administrator
Barb Mack, Community Development Director
Elizabeth Burton, City Clerk/Finance Director

Administrative Offices, 2 North 7th Street
Estherville, Iowa 51334
Office Hours: Monday-Friday 7:30 A.M. - 4:30 P.M.
Ph: (712) 362-7771 Fax: (712) 362-7773

Estherville City Council

Kenny Billings, Mayor
Brandon Carlin (Ward 1)
Julie Clark (Ward 2)
Dave Seylar (Ward 3)
Ann Goebel (Ward 4)
Roger Guge (Ward 5)
Gene Haukoos (At Large)
Larry Anderson (At Large)

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Steve Woodley
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Cindy Hood
Barb Mack (Secretary)

Board of Adjustment

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Shannon Lehmkuhl
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Barb Mack (Secretary)

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REPLACES CHAPTER 6 – SUBDIVISION CONTROLS OF
TITLE VI – COMMUNITY DEVELOPMENT AND ENVIRONMENT
OF THE ESTHERVILLE CODE OF ORDINANCES
ADOPTED BY ORDINANCE NO. 610 ON APRIL 3, 2000
AND ALL AMENDMENTS THERETO

SUBDIVISION REGULATIONS ORDINANCE
OF THE CITY OF ESTHERVILLE, IOWA

AN ORDINANCE prescribing minimum requirements for the design and development of new subdivisions and resubdivisions of land in the incorporated city limits of Estherville, Iowa; providing for the enforcement of these regulations; for the repeal of other ordinances or resolutions in conflict herewith; and requiring as a condition of approval, certain improvements; all for the purpose of promoting the safety, health and general welfare of the public in accordance with the comprehensive land use plan of Estherville, Iowa, and in accordance with provisions of Chapter 354, Code of Iowa; Platting-Division and Subdivision of Land.

WHEREAS, the Estherville City Council has adopted a zoning ordinance to assist in guiding future development of the city by regulating the uses of land, the size of lots, the height and bulk of buildings, the size of yards and open spaces around buildings and structures for residences, commerce, industry, and other purposes; and

WHEREAS, the Estherville City Council deems it necessary in order to secure coordination of subdivisions of land and extensions of streets; to promote proper standards for development of land, utilities, and streets; to promote the general welfare; to promote the conservation of energy resources; to facilitate the adequate provision of transportation, private and public water supply, on-site private and public sanitary sewage treatment, storm drainage, and other public improvements and services in areas of new development and throughout the city.

NOW THEREFORE, BE IT ORDAINED BY THE ESTHERVILLE CITY COUNCIL; the following ordinance relating to and prescribing rules for the subdivision and platting of land be adopted as follows:

ARTICLE 1. BASIC PROVISIONS

Article 1: Basic Provisions

- Section 1.1. Short Title
- Section 1.2. Purpose
- Section 1.3. Jurisdiction
- Section 1.4. Platting Required
- Section 1.5. Recording of Plat
- Section 1.6. Auditor's Plats
- Section 1.7. Plats within Two Miles of the Corporate Limits
- Section 1.8. Comprehensive Plan

SECTION 1.1. SHORT TITLE.

This ordinance shall be known and cited as the “Estherville Subdivision Regulations”.

SECTION 1.2. PURPOSE.

The purpose of this ordinance is to establish minimum standards for the design, development, and improvement of all new subdivisions and resubdivisions so that existing developments will be protected, so adequate provisions are made for public services, to insure growth occurs in an orderly manner consistent with the city's comprehensive plan, and to promote the health, safety, and general welfare of the public.

SECTION 1.3. JURISDICTION.

In accordance with the provisions of Chapter 354, Code of Iowa, and amendatory acts thereto, this ordinance is adopted by the City of Estherville, Iowa, governing the subdivision of all lands within the incorporated city limits and all lands within two (2) miles of the corporate limits.

SECTION 1.4. PLATTING REQUIRED.

Every owner of a tract or parcel of land who shall hereafter subdivide or plat land into three (3) or more parts, for the purposes of laying out an addition, subdivision, building lot or lots, or acreages within the city or within two (2) miles of the corporate limits shall cause plats to be made in form and containing the information hereinafter set out before selling any lots therein contained or placing the plat on record

SECTION 1.5. RECORDING OF PLAT.

No subdivision plat, resubdivision plat or street dedication within the city, as provided in Chapter 354.9, Code of Iowa, shall be filed for record with the county recorder until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this ordinance. Upon approval of the final plat by the city council it shall be the duty of the subdivider to immediately file such plat with the county auditor and county recorder, as required by law. Such approval shall be revocable after thirty (30) days, unless such plat has been duly recorded and evidence thereof filed with the county auditor within thirty (30) days. Furthermore, the city will require that no subdivision plat, resubdivision plat or street dedication located within two (2) miles of the corporate limits of Estherville be filed for records with the county recorder until the planning and zoning commission has had an opportunity to review and comment on such subdivision regarding compliance of this ordinance.

SECTION 1.6. AUDITOR'S PLATS.

Regarding auditor's plats, as distinguished from subdivider's plats, the city council shall have the right to waive provisions governing preliminary approval and public improvements outlined in these regulations provided there is a copy on file of the request of the county auditor ordering such plat and a letter from said auditor stating the submitted plat meets the requirements for which the plat was ordered.

SECTION 1.7. PLATS WITHIN 2 MILES OF THE CORPORATE LIMITS.

The purpose of this section is to facilitate the orderly processing of subdivisions in unincorporated areas within two (2) miles of the corporate limits of Estherville and to avoid conflicting regulations while at the same time assuring that provisions are made for proper and orderly future growth of the city. In accordance with the provisions of Section 354.9 of the Code of Iowa, as amended, a subdivider or other agent, shall file a copy of all preliminary and final subdivision plats including minor plats, for the unincorporated areas within Emmet County that are within two (2) miles of the city. Procedure for approval of preliminary and final plats of land within two (2) miles of the corporate limits shall be the same as set out in Section 4.2 and 5.1 except the owner or subdivider shall file eleven (11) copies of the subdivision plat with the administrative or supervisory person to whom such duties are assigned pursuant to Title I, Chapter 4, Article 4 of the Code of Ordinances of the City of Estherville, Iowa. Emmet County zoning officials shall not act on the plat prior to receiving comments and a recommendation from the city, provided the city shall submit its recommendations within thirty (30) days after the referral of the rural subdivision plat. Approval by one (1) political entity does not automatically constitute approval by the others unless the political entities have so agreed.

SECTION 1.8. COMPREHENSIVE PLAN.

All proposed plats and subdivisions shall conform to the Estherville Comprehensive Plan. All proposed plats and subdivisions shall also conform to additional proposed street plans as set forth by the city.

ARTICLE 2. DEFINITIONS

Article 2: Definitions

Section 2.1. Subdivision Definitions

SECTION 2.1. SUBDIVISION DEFINITIONS.

For use in this ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular shall include the plural and the plural the singular; the word shall is always mandatory, the word may is permissive.

1. *Access Street*: A street that is parallel to and adjacent to a major thoroughfare or highway; and which provides access to abutting properties and protection from through traffic.
2. *Aliquot part*: A fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.
3. *Alley*: A public right-of-way, other than a street, affording a secondary means of access to abutting properties.
4. *Auditor's plat*: A plat prepared at the request of the County Auditor to clarify property descriptions for the purposes of assessment and taxation.
5. *Block*: An area of land within a subdivision entirely bounded by streets, highways, lakes, sloughs, wetlands or marshes, tracts of public land, or other public rights-of-way except alleys; and the exterior boundaries of the subdivision.
6. *Building Lines (Setback Lines)*: A line on a plat, between which line and the public right-of-way no buildings or structures may be erected or built. Building lines shall be shown on all lots intended for residential use of any character, and on commercial and industrial lots when required by ordinance. Such building lines shall not be less than required by the zoning ordinance. Where the subdivided area is not under zoning control, the planning and zoning commission shall require building lines in accordance with the needs of each addition.
7. *City*: City of Estherville, Iowa
8. *City Engineer*: The city administrator or any duly qualified person, firm or registered professional engineer designated by the city council to serve in such capacity.
9. *Collector Streets*: Those streets that carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such development.
10. *Commission*: The planning and zoning commission of Estherville, Iowa.
11. *Comprehensive Plan*: A master plan prepared indicating recommended general locations of public areas, residential areas, businesses, industries; provisions for traffic; and general physical development of the city.
12. *Council*: The city council of the City of Estherville, Iowa.
13. *Crosswalk*: A pedestrian walkway connecting two or more streets.

14. *Cul-de-sac*: A short minor dead-end street having one end open to traffic, and the other end terminated by a vehicular turnaround.
15. *Develop*: To erect buildings on or to desire publicly maintained streets and alleys and/or utility systems upon a parcel of land.
16. *Developer*: Any person or persons who develop or makes available to others, lots within a platted area for the purpose or erecting a building or buildings.
17. *Easement*: A grant by the property owner for the right to use of land across public or private land for specific purposes by the public, a corporation or certain persons of which the owner shall not erect any permanent structures on such easement but shall have the right to make any other use of the land subject to such easement which is consistent with the rights of the grantee. Utilities shall have the right to trim or remove trees that interfere with the use of such easements.
18. *Engineer*: A registered professional engineer authorized to practice engineering as defined by the registration act of the State of Iowa.
19. *Half Street*: A one-half width street right-of-way on the boundary of a subdivision dedicated by the subdivider to the city for future development when another subdivision is platted along the side of the half street. Half streets are not permitted in new subdivisions.
20. *Highway*: A major street that carries a large volume of traffic (state/federal routes).
21. *Improvements*: Pavements, curbs, water mains, sanitary sewers, storm sewers, grading, street signs, plantings and other items benefitting the welfare of the property owners and the public.
22. *Land Surveyor*: Anyone who engages in land surveying pursuant to Chapter 114, Code of Iowa, authorized to practice surveying as defined in the registration act of the State of Iowa.
23. *Lot*: A portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership, improvement or for building development.
24. *Major Subdivision*: All subdivisions not classified as minor subdivisions, including, but not limited to, any size subdivision requiring any new public or private street, extension of local government facilities, to the creation of any public improvements.
25. *Major Street (or Thoroughfare)*: A street of considerable continuity connecting various sections of a city and used primarily for fast, large volume traffic.
26. *Metes and Bounds Description*: A description of land using distances and angles, distances, and bearings, or describes the boundaries of the parcel by reference to the physical features of the land.
27. *Minor Street*: A street used primarily for access to abutting properties.
28. *Minor Subdivision*: Any subdivision fronting an existing road, not involving any new road or street or the extension of utilities, and not adversely affecting the remainder of the parcel or adjoining property and not in conflict with any provision of the comprehensive plan, zoning ordinance, or this ordinance may be classified as a minor subdivision and must meet the appropriate provisions of this ordinance.
29. *Mobile Home Subdivision*: A subdivision designed according to the city's subdivision regulations and designed only for the location of mobile homes on lots owned by the mobile home owner.

30. *Official Plat*: Either an Auditor's plat or a major or minor subdivision plat that meets the requirements of the Code of Iowa and has been approved by the city and filed for record in the offices of the County Recorder, County Auditor, and County Assessor.
31. *Outlot*: A portion of a subdivision or other parcel or tract intended as a unit for the proposed, whether immediate or future, transfer of ownership. An outlot is an unbuildable lot. Typically, a subdivider may use an outlot for the following reasons: (a) To reserve a portion of a final plat for future development or sale; (b) To reserve a portion of a final plat for construction of and future dedication of a detention basin to the city or private association; or (c) For construction of a private street or access that will be owned and maintained by a private association.
32. *Owner*: The legal entity holding title to property being subdivided or such representative or agent as is fully empowered to act on its behalf.
33. *Parcel*: A part or tract of land.
34. *Performance Bond*: A surety bond or cash deposit made out to the city in an amount equal to the full costs of the improvements which are required by this ordinance, said cost being estimated by the city engineer, and surety bond or cash deposit being legally sufficient to secure to the city that said improvements will be constructed in accordance with this ordinance.
35. *Plat*: A map, drawing or chart on which the subdivider's plan is presented to the commission and council for approval; and which in its final form, will be submitted to the county recorder in such part as may be necessary for filing.
36. *Resubdivision*: Any subdivision previously included in a recorded plat. In appropriate context, the term may be used in referring to the act of preparing a plat of previously subdivided land.
37. *Right-of-Way*: The area measured between property lines, dedicated to and accepted for public use; and providing access to abutting properties.
38. *Roadway*: That portion of the improved street available for vehicular traffic, and measured from back to back of curbs where curbs are laid.
39. *Street*: Public property, not an alley, intended for vehicular circulation. In appropriate context, the term "street" may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
40. *Subdivider*: A person, firm or corporation undertaking the subdivision or resubdivisions of a tract or parcel of land.
41. *Subdivision*: A division of any lot, tract, or parcel of land into three (3) or more lots, plots, sites, or other divisions of land for either immediate or future sale, transfer or ownership or building development. The term, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided; or the subdivision of land hereto divided or platted into lots, or any division of land if a new street is involved.
42. *Superintendent of Public Works*: The city administrator, utility manager, city engineer, or any other official(s) designated by the city council or board responsible for any part of the public works of the city.
43. *Tract* – An aliquot part of a section, a lot within an official plat, or a government lot.
44. *Utilities* – Systems for the distribution or collection of water, gas, electricity, wastewater, storm water, other energy sources, and telecommunications.

ARTICLE 3. MINOR SUBDIVISIONS

Article 3: Minor Subdivisions

- Section 3.1. Minor Plat Requirements
- Section 3.2. Review by Agencies
- Section 3.3. Procedures for Minor Subdivision

In lieu of a major subdivision (preliminary and final plats), a land owner, developer or subdivider may utilize a minor subdivision as defined in Article II.

SECTION 3.1. MINOR PLAT REQUIREMENTS.

The subdivider shall prepare the proposed minor subdivision plat and shall furnish to the zoning administrator all plans and information, including three (3) copies of the final plat conforming in detail to the requirements set forth in this ordinance. No minor plat shall be considered or acted upon by the city council without affording a public hearing as published in the local newspaper per state statute. Furthermore, the city shall notify property owners by ordinary mail within five hundred feet (500') of the proposed subdivision of the time and place of the subdivision public hearing. The minor plat shall contain such information as required by this ordinance, specifically the requirements in Section 5.2 and Section 5.3; or as may be specified by Iowa Code.

SECTION 3.2. REVIEW BY AGENCIES.

Upon review and recommendation from the planning and zoning commission, the city clerk shall place the minor plat on the city council agenda and thereafter forward copies of the submitted plat to the mayor and councilpersons, city administrator, zoning administrator, city attorney and other agencies or persons as may be deemed appropriate. Within 30 days thereafter, the city engineer or other city staff shall notify the zoning administrator that access onto a public street or highway can or cannot be provided and that other required improvements are or are not present. The city engineer or other city staff shall further notify the zoning administrator the land to be subdivided complies with all applicable city, county and state standards and the existing public improvements complies with applicable city standards.

SECTION 3.3. PROCEDURES FOR MINOR SUBDIVISION.

1. Within thirty (30) days following the receipt of an application, or additional time as the subdivider may authorize, the city council shall hold a public hearing on the subdivision request. The council shall act upon the minor plat no more than sixty (60) days after receipt by the city clerk.
2. The city council may approve or disapprove of the subdivision request, after referring the proposed subdivision to the planning and zoning commission for review prior to considering the minor plat. If approved the minor plat shall be certified by resolution. In the event a minor subdivision plat is not approved; the council shall state in writing how the proposed plat is objectionable.
3. Passage of a resolution accepting the plat shall constitute final approval. The subdivider shall cause such plat to be recorded as required by Chapter 354, Code of Iowa, before the city shall recognize the plat as being in full force and effect. The subdivider shall record the plat within sixty (60) days after the council's approval, and is responsible for all recording costs. Additionally, one (1) copy of the approved minor plat, adopting resolution, and any restrictive covenants shall be submitted to the city clerk by the subdivider.

ARTICLE 4. PRELIMINARY PLAT

Article 4: Preliminary Plat

- Section 4.1. Pre-application Meeting
- Section 4.2. Preliminary Plat Procedures
- Section 4.3. Requirements of Preliminary Plat

SECTION 4.1. PRE-APPLICATION MEETING.

Early in the planning stage, prior to the subdivision of any land, the subdivider shall be responsible for contacting the city administrator for presenting in general terms a proposed subdivision. No formal approval is required at this point as the purpose of the initial contact is to merely provide general information to the city. In obtaining approval of the proposed subdivision by the city administrator, the subdivider shall submit a preliminary plat in accordance with the requirements hereafter established.

SECTION 4.2. PRELIMINARY PLAT APPROVAL.

In obtaining preliminary approval of a proposed subdivision by the city council, the subdivider shall submit a preliminary plat in accordance with the following order and procedure:

1. Whenever an owner of land or subdivider within the city limits wishes to make a subdivision of same, the owner or subdivider shall first prepare and file nine (9) copies of a preliminary plat conforming in detail to the requirements set forth in a format and on media acceptable to the city. Eleven (11) copies of the preliminary plat shall be submitted for subdivisions within the extraterritorial limits of the city. One (1) computer copy of the preliminary plat shall be provided in a format and on media acceptable to the City of Estherville. The preliminary plat shall contain such information and data as outlined in Section 4.3.
2. In the case of a subdivision outside the corporate limits of the city but within the 2 mile extraterritorial area, upon review and recommendation from the planning and zoning commission, the zoning administrator shall refer the city's recommendation along with two (2) copies of the preliminary plat to the Emmet County board of supervisors.
3. The city engineer shall examine said preliminary plat as to its compliance with the laws and regulations of the city, the existing street system, and sound engineering practices; and shall within thirty (30) days of the date of application submit the findings to the planning and zoning commission.
4. After receiving the engineer's report and any comments from the county in relation to those subdivisions outside the corporate limits, the planning and zoning commission shall study the preliminary plat and other material for conformity thereof to these regulations. The Commission may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made. The planning and zoning commission shall conclude its study of the preliminary plat and make a recommendation to the city council to approve or disapprove the preliminary plat within sixty (60) days after its presentation to the commission.
5. Before approving a preliminary plat, the planning and zoning commission may, at its discretion, hold a public hearing on the proposed subdivision, notice of which shall be given by publication in a local newspaper of general distribution no less than four (4) and no more

than twenty (20) days prior to the scheduled public hearing. Furthermore, the city shall notify all property owners within five hundred feet (500') of any part of the proposed plat.

6. The planning and zoning commission shall set forth its recommendations in writing, whether the subdivision is approved, modified, or disapproved. If substantial changes or modifications are made by the commission or disapproval of the plat, the commission shall provide its reasons and request the revised preliminary plat to be resubmitted in the same manner as the original.
7. The planning and zoning commission shall forward its recommendation to the city council. Within thirty (30) days after recommendation of the planning and zoning commission and upon concluding its study of the preliminary plat the city council shall approve, disapprove or modify the recommendations of the commission and impose any requirements or grant variances in conformance with this ordinance deemed necessary and appropriate for final approval. The decision of the city council together with all modifications, requirements, variances, and reasons thereof shall be noted on all copies of the preliminary plat. One (1) copy shall be returned to the subdivider and the other copies retained by the city.
8. Upon approval of the preliminary plat by the city council, the subdivider may proceed with preparation of the final plat and construction drawings and specifications for the improvements required under these regulations. The approval of the preliminary plat shall be null and void unless the final plat is presented to the planning and zoning commission within one (1) year after the date of preliminary plat approval.
9. A conditional approval of the preliminary plat by the city council is revocable and does not constitute final plat approval of the subdivision by the city or the city's authorization to proceed on construction of improvements within the subdivision, but is merely an authorization to proceed with preparation of the final plat.

SECTION 4.3. REQUIREMENTS OF PRELIMINARY PLAT.

The preliminary plat is not intended to serve as a record plat. The subdivision shall be clearly marked "Preliminary Plat" and show, or have attached thereto, the following information:

1. **GENERAL.** The required number of copies of the preliminary plat shall be submitted as prescribed for review. The plat shall include a title, scale, north arrow, date, and official legal description of the property being platted. The scale of the preliminary plat shall be no less than one hundred feet (100') to one inch (1"). A scale of other than 100'=1" may be used if prior approval is obtained from the city. Where more than one sheet is required, the sheets shall show the sheet numbers and match lines indicating where sheets adjoin.
2. **NAME.** Proposed name of the subdivision that shall not duplicate or resemble existing subdivision names within Estherville or Emmet County.
3. **OWNER.** Name and address of recorded owner, subdivider and/or developer and the name and address of the engineer, land surveyor or architect preparing the plan.
4. **KEY MAP.** A vicinity sketch or key map showing location and names of adjoining subdivisions, streets and tract lines of acreage parcels, together with names of owners of parcels of land within five hundred feet (500') of the outer boundaries of the proposed subdivision.
5. **ACRES.** Acreage of the land to be subdivided.

6. **CONTOUR.** Existing and proposed contours with intervals sufficient to determine the character and topography of the land, but in no case shall be no more than two feet (2').
7. **BOUNDARIES.** Subdivision boundary lines showing dimensions, bearings, angles and references to section, townships and range lines or corners shall be indicated by a heavy line.
8. **BUILDINGS.** Existing buildings, railroads, underground utilities, and other rights-of-way.
9. **STREETS.** Present and proposed streets, roads, highways, alleys, and sidewalks with their rights-of-way in and adjacent to the area being subdivided. Additionally, the dedicated widths, approximate gradients, types and widths of surfaces, curbs, planting strips and location of street lights. A typical cross-section of proposed streets showing the roadway location type and width of surfacing. The type of drainage and other improvements shall also be shown.
10. **LOTS.** Proposed layout of lots showing the lot numbers, dimensions, building setback lines, radii chords and the square foot area of irregular or nonrectangular lots.
11. **PUBLIC USE.** Area dedicated or reserved for public use such as schools, parks, playgrounds, or other public, semi-public or community purposes proposed by the subdivider for public or private use; or shown for such purpose in the comprehensive plan.
12. **EASEMENTS.** Present and proposed easements showing locations, widths, purpose, and distances.
13. **UTILITIES.** Proposed utility systems or services, including sanitary sewers, storm sewers, other draining facilities, water lines, gas mains, electric utilities, street lighting and other facilities indicating the size, capacity, invert elevation and location of each.
14. **ZONING.** Existing and proposed zoning of the proposed subdivision.
15. **COVENANTS.** A copy of any protective covenants or private deed restrictions to be incorporated in the final plat.
16. **ADDITIONAL INFORMATION.** Any other pertinent information, as necessary for the review of the preliminary plat or as requested by the planning commission or city council.
17. **ACCOMPANYING MATERIAL.** Any plat that cannot reasonably be served by public sewer shall show results of soil percolation test made by the engineer preparing the plat. Such tests shall be made in accordance with specifications approved by the city engineer. One (1) test for each three (3) acres, or fraction thereof shall be shown on the preliminary plat.
18. **FEE.** The platting fee, as required by this ordinance and established by resolution of the council.

ARTICLE 5. FINAL PLAT

Article 5: Final Plat

- Section 5.1. Final Plat Approval
- Section 5.2. Requirements of Final Plat
- Section 5.3. Final Plat Attachments

SECTION 5.1. FINAL PLAT APPROVAL.

The final plat shall conform substantially to the preliminary plat as approved, and if desired by the subdivider it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time. In obtaining preliminary approval of a proposed subdivision by the city council, the subdivider shall submit a final plat in accordance with the following order and procedure:

1. The subdivider shall, within one (1) year of the conditional approval of the preliminary plat, prepare and submit 8 copies of the final plat and all plans and information as required by this ordinance to the planning and zoning commission for approval. The subdivider's failure to do so within the time specified results in the conditional approval of the preliminary plat to be null and void. One (1) electronic copy of the final plat shall be provided in a format and on media acceptable to the City of Estherville.
2. The final plat shall be filed in duplicate together with a certificate from the city engineer that the final plat is substantially in accord with the preliminary plat as approved by the city planning and zoning commission and the city council.
3. The planning and zoning commission shall consider the final plat. Within thirty (30) days of receiving the final plat the commission shall submit its recommendation to the city council. Said recommendation shall include approval, disapproval or suggestions for modifications and reasons thereof. Said recommendation shall be advisory in nature only.
4. The city council shall then consider the plat and if the same is acceptable and in accordance with this ordinance, the city council may accept the same. If said plat is disapproved by the city council, such disapproval shall point out in writing wherein said proposed plat is objectionable. If the planning and zoning commission does not recommend approval of the final plat, the city council may approve said plat only by a four-fifths (4/5) vote of the entire city council.
5. Upon receipt of the recommendation by the planning and zoning commission, the city council shall act within sixty (60) days after receipt of the final plat. If the final plat is disapproved by the city council, such disapproval shall be expressed in writing and shall point out why the submitted final plat is objectionable. In the event the said final plat is found to be acceptable and in accordance with this ordinance, the city council shall approve and accept the same.
6. The passage of a resolution by the city council accepting the plat shall constitute final approval of the final plat. However, the subdivider or owner shall cause such final plat to be recorded in the office of the Emmet County Recorder, as provided in Chapter 354, Code of Iowa, and amendatory acts thereto. Notice or satisfactory evidence of such recording shall be filed with the city clerk within ninety (90) days after city council approval. The city will not recognize the subdivision plat as being in full force and effect until such subdivision is recorded.

7. Final acceptance for recording purposes shall not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after construction is completed and upon inspection by the public works director or city engineer.

SECTION 5.2. REQUIREMENTS OF FINAL PLAT.

The final plat shall conform substantially to the preliminary plat as approved, and may include all or a portion of the preliminary plat. The final plat shall show the following:

1. When and if the preliminary plat is approved, the subdivider shall submit six (6) copies of the final plat for review by the commission. The final plat shall be made from an accurate survey by a registered engineer or land surveyor and clearly and legibly drawn to a scale of not less than fifty feet (50') to one inch (1"). If the resulting drawing will be greater than eighteen inches (18") in shortest dimension, a scale of one hundred feet (100') to one inch (1") may be used. A scale other than 100' = 1" may be used if prior approval is obtained from the planning and zoning commission and county recorder.
2. Name and title of the subdivision to be recorded. A correct legal description of property subdivided, showing its location and extent, points of compass, scale, and date. The name and address of owner(s) and subdivider; and certification by a registered land surveyor of the State of Iowa making the final plat.
3. Accurate boundary lines of the property, with dimensions, bearings, and angles that provide a survey of the tract, closing with error of not more than one foot (1') in ten thousand feet (10,000') on the boundary, and one foot (1') in five thousand feet (5,000') for any individual lot. Distances shall be measured to the nearest one hundredth foot.
4. Location, type, material, and size of all monuments and markers. Accurate references to known or permanent monuments and markers including all U.S., State of Iowa, Emmet County, or other official bench marks. Such references shall provide the bearing and distance from some corner of a congressional division of the county of which the subdivision is a part.
5. Accurate metes and bounds description of the boundaries of the property.
6. Accurate location of all streets and alleys, with their widths and any other areas intended for public use. These should be exact and complete to include all distances, radii, arc, curve notes, chords, points of tangency, and central angles.
7. Street names and street right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines. Streets that are continuations of present streets should bear the same name, and if new names are needed they should be distinctive. Street names may be required to conform to the city's street plan or comprehensive plan.
8. Lot numbers and dimensions.
9. Accurate locations, descriptions, and dimensions of easements and any limitation on such easements.
10. Accurate dimensions for all property to be dedicated or reserved for public or community use.
11. Parcels not part of the plat shall be identified.

SECTION 5.3. FINAL PLAT ATTACHMENTS.

The final plat shall contain the following accompanying materials.

1. **OWNER'S CERTIFICATION.** A statement by the owner or owners and the owners spouse(s), if applicable, that the subdivision plat is prepared with their free consent and in accordance with their desire. The statement must be signed and acknowledged by the owner and spouse, if applicable, before an officer authorized to take the acknowledgments of deeds. The statement by the owner may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the city council approves the dedication.
2. **ABSTRACT OF TITLE.** A complete abstract of title and an attorney's opinion showing that the fee title to the subdivision land is in the owner's name as shown on the plat is free from encumbrances other than those secured by an encumbrance bond.
3. **CERTIFICATE OF DEDICATION.** A certificate of dedication to the city, properly executed, for all streets intended as public streets, and for any other property intended for public use, except for areas outside of the corporate limits.
4. **COUNTY TREASURER CERTIFICATE.** A certificate of the county treasurer showing that all subdivision land is free from taxes and free from certified special assessments; or the land is free from taxes and secure any certified special assessments by a bond in compliance with Section 354.12, Code of Iowa.
5. **COUNTY RECORDER CERTIFICATE.** A certificate from the county recorder showing the title is in the owner's name and it is free from all judgements, attachments, mechanics, or other liens of record other than those secured by an encumbrance bond.
6. **CITY COUNCIL APPROVAL.** A resolution of approval by the city council with signatures of the mayor and city clerk.
7. **SATISFACTORY IMPROVEMENTS.** A written and signed statement explaining how and when the subdivider proposes to provide and install all improvements required by this ordinance. Such statement shall acknowledge required conformity with city specifications, inspections, and approvals by the city engineer.
8. **COVENANTS OR DEED RESTRICTIONS.** Any protective covenants or deed restrictions to be imposed upon the plat shall be submitted for review.
9. **DRAINAGE PLANS.** The owner(s) shall submit drainage plans for the effective removal of storm water, of which will not negatively affect adjoining or neighboring property owners.

ARTICLE 6. DESIGN STANDARDS

Article 6: Design Standards

Section 6.1.	General Requirements
Section 6.2.	Streets
Section 6.3.	Alleys
Section 6.4.	Railroads
Section 6.5.	Easements
Section 6.6.	Blocks
Section 6.7.	Lots
Section 6.8.	Plat Markers and Monuments

SECTION 6.1. GENERAL REQUIREMENTS.

The standards and details of design herein contained are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of a plat, the subdivider shall use standards consistent with the site conditions to assure an economical, pleasant, and durable neighborhood. No subdivision plat shall be approved by the planning and zoning commission unless it conforms to the following minimum standards and requirements.

SECTION 6.2. STREETS.

1. Frontage or Access Streets. Where the proposed subdivision abuts or contains an existing or proposed arterial street or highway on which traffic volumes and vehicular speeds warrant special considerations, the planning and zoning commission may require access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or other treatment as may be necessary for adequate protection of residential properties and separation of through and local traffic.
2. Cul-De-Sacs (Or Dead-End Streets). Cul-de-sacs are permitted where topography and other conditions justify their use. Such streets shall not be longer than six hundred feet (600') and shall terminate with a circular turnaround having a street property line diameter of at least one hundred feet (100') in the case of residential subdivisions. A turnaround diameter more than one hundred feet (100') may be required by the planning and zoning commission for commercial or industrial subdivisions if deemed necessary. The right-of-way width of the street leading to the turnaround shall be a minimum of fifty feet (50'). The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than one hundred twenty feet (120') or equal straight approach lines.
3. Continuation of Existing or Planned Streets. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) or any streets which are a part of an approved preliminary subdivision plan, in adjoining property, at equal or greater width, but not less than fifty (50) feet in width, and in similar alignment, unless changes are recommended by the planning and zoning commission.
4. Circulation. The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares, or unsubdivided land as may be required by the planning and zoning commission. In a case where a street will eventually be extended beyond the plat but is temporarily dead-ended an interim turnaround may be required.

5. Street Intersections. Street intersections shall be as nearly at right angles as possible. No intersection shall be less than sixty (60) degrees. When practical, acute angles between streets at intersections are to be avoided. When connecting street lines that deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred feet (200'). Intersections of more than two (2) streets at a point shall not be permitted.
6. Street Names. All newly platted streets shall be named and in a manner conforming to the prevailing street naming system. Proposed streets that are in alignment with other existing streets, or with a street that may be logically extended although the various portions be at a considerable distance from each other shall bear the same name. Names of new streets shall be subject to the approval of the planning and zoning commission to avoid duplication or close similarity of existing street names.
7. Physical and Cultural Features. In general, streets shall be platted with appropriate regard for topography, creeks, wooded areas, and other natural features which would lend themselves to attractive treatment.
8. Half Streets. The platting of half streets will not be permitted, except where there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided and the other half may be platted if deemed necessary by the commission.
9. Neighborhood Plan. The arrangement of streets in a subdivision shall provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to the plat for the neighborhood as approved by the planning and zoning commission. Thoroughfare and collector streets in a subdivision shall extend through to the boundaries thereof, unless a terminal point within the subdivision is shown in the comprehensive plan.
10. Land Not Platted. Where the plat to be submitted includes only part of the tract owned by the subdivider, the planning and zoning commission may require topography and a sketch of a tentative future street system of the unsubdivided portion.
11. Dedication of Streets. A dedication to the city shall be given for all streets before the same will be accepted for city maintenance. The city will not maintain any street until it has been surfaced in accordance with city specifications.
12. Street Grades. Streets and alleys shall be completed to grades which have been officially determined or approved by the city engineer. All streets shall be graded to the full width of the right-of-way and adjacent side slopes graded to blend with the natural ground level. The maximum grade shall not exceed 6% for main and secondary thoroughfares, or 10% for minor or local service streets. All changes in grades on major roads or highways shall be connected by vertical curves of a minimum length of one-hundred feet (100'). The grade alignment and resultant visibility, especially at intersections, shall be worked out in detail to meet the approval of the city engineer.
13. Street Right-of-Way and Widths. Minimum rights-of-way shall be provided in accordance with the recommended standards outlined in the Iowa SUDAS Manual (Statewide Urban Design and Specifications).
14. Access to Lots and Parcels. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.

15. Street Offsets. Street centerline offsets shall be not less than two hundred feet (200') apart.

SECTION 6.3. ALLEYS.

Alleys may be required in commercial and industrial districts, except the planning and zoning commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed. Alleys shall be no less than twenty feet (20') wide. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with a means of turning around at the dead-end thereof.

SECTION 6.4. RAILROADS.

If a railroad is involved in a subdivision, the subdivision plan should be so arranged as to permit, where necessary, future grade separation at highway crossings of the railroad. The planning and zoning commission may require a street border the railroad with a street approximately parallel to the railroad at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separation. Additionally, subdivisions may provide cul-de-sacs at right angles to the railroad, as an alternative so as to permit buildable lots to back thereunto

SECTION 6.5. EASEMENTS.

Easements shall be no less than ten feet (10') wide and provided as required by the city and/or utility companies. Easements of greater width may be required for trunk lines, pressure lines, or high voltage lines and shall be provided as determined by the city and/or utility companies. Where a subdivision is transversed by a water course, drainage way, channel or stream, a storm water easement or drainage right-of-way shall be provided conforming substantially to the lines of such water course, and further width for construction, or both, as will be adequate for the purpose. If the city council deems it necessary for proper drainage within or through a subdivision, it shall require a storm water easement or drainage right-of-way be provided. Utility easements shall convey to the utility provider, its successors and assigns, the perpetual right within the areas shown on the plat and described in the easement, to construct, operate and maintain electric lines consisting of wires, cables, fiber optic lines, conduits, fixtures, anchors, and other similar equipment, including the right to trim or remove trees within such areas where necessary to secure an open area with a vertical plane to the easement line.

SECTION 6.6. BLOCKS.

No block shall be longer than one thousand three hundred twenty feet (1,320') or less than three hundred feet (300') in length between the center lines of intersecting streets, except as the planning and zoning commission, in their opinion, deems extraordinary conditions unquestionably justify a departure from these minimum limits.

SECTION 6.7. LOTS.

No lot shall be less in size or shape than required to provide an adequate building site in compliance to the zoning ordinance.

1. Relationship to Streets. Each lot shall be provided by satisfactory access to an existing public street or acceptable private drive with satisfactory access to a public street. Lots at street

intersections shall have a minimum radius of twenty feet (20') at the street corner.

2. Lots Not Served by Utilities. All lots not served by public sanitary sewer shall not be less than one hundred feet (100') wide, or no less than one-half (½) acre in size.
3. Commercial Lots. Depth and width of properties reserved or platted for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
4. Arrangement. Each lot in a new subdivision, after the effective date of this ordinance, shall contain a building site completely free from the danger of flooding.
5. Building Lines. Building lines (or setback lines) shall conform to the Estherville zoning ordinance and be shown on all lots within the platted subdivision.
6. Corner lots. Corner lots shall be not less than twenty feet (20') greater in width than the minimum required interior lot width, to permit required building setbacks on both front and side streets as required by the zoning ordinance.
7. Double Frontage Lots. Double frontage, reverse frontage or through lots, shall be avoided except where essential to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet (10') shall be provided along the line of lots abutting such traffic arterial or other disadvantageous use.
8. Lot Lines. Side lot lines shall be substantially at right angles to street lines, or radial to curved street lines, except where a variation of this rule will provide a better street and lot layout.
9. Lot Width. Each lot shall be provided with no less than seventy-five feet (75') of access frontage to a public street, subject to the following exceptions: Lots of irregular shape may have fifty (50) feet of access frontage, provided the minimum lot width and area requirements of the zoning ordinance are met. Lots within mobile home subdivisions shall be provided with forty feet (40') of access frontage.

SECTION 6.8. PLAT MARKERS AND MONUMENTS.

Permanent plat markers shall be placed at all block corners, angle points, points of curves in streets, lot corners and all such intermediate points as shall be required by the city. The markers shall be steel and at least thirty inches (30") long and five-eighths (5/8") in diameter, with a surveyor's identification cap attached as per State Code. Wood markers are not acceptable. A permanent benchmark shall be accessibly placed within the subdivision, the elevation of which shall be referred to the U.S.G.S. datum and accurately noted on the subdivision plat. The subdivider or developer shall provide the city with GPS (Global Positioning System) coordinates on all plat markers.

ARTICLE 7. IMPROVEMENTS

Article 7: Improvements

Section 7.1.	Resubdivisions
Section 7.2.	Land Suitability
Section 7.3.	Required Improvements
Section 7.4.	Specifications
Section 7.5.	As-Builts
Section 7.6.	Guarantees
Section 7.7.	Final Completion and Acceptance
Section 7.8.	Improvements within Extraterritorial Jurisdiction

SECTION 7.1. RESUBDIVISIONS.

The city council may waive requirements for the construction and installation of some or all the foregoing improvements in cases of resubdivisions where only the size, shape, and arrangement of the lots is being changed and no new streets are required; and in case of dedications of land or rights-of-way to public use where such dedication is more than the needs of the subdivision and is desired by a public agency in lieu of a purchase or condemnation.

SECTION 7.2. LAND SUITABILITY.

If the city finds the land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, steep slopes, rock formations, and other such conditions as may increase the danger of health, life, or property or aggravate erosion or flood hazards the city council may not approve the land for subdivision unless adequate methods are formulated by the subdivider for meeting the problems created by the subdivision and development of the land. Furthermore, the planning and zoning commission may refuse to approve scattered or premature subdivision of land that would otherwise involve danger or injury to the public health, safety, welfare, or prosperity due to lack of adequate water supply, schools, proper drainage, or necessitate an excessive expenditure of public funds for the supply of such services.

SECTION 7.3. REQUIRED IMPROVEMENTS.

All plans, specifications, installation, and construction required by this ordinance shall be subject to the review, approval, and inspection by the city engineer or another authorized city representative. The subdivider shall furnish the city engineer with a construction schedule prior to commencement of any and/or all construction; and shall notify the city engineer, not less than twenty-four (24) hours in advance of readiness for required inspections.

1. Grading. The subdivider shall bring all streets and alleys dedicated for public use within the platted area to the grade approved by the city prior to installation of any underground utilities.
2. Street Surfacing. The subdivider shall surface all streets being dedicated for public use from curb to curb. Surfacing shall consist of no less than six inches (6") of Portland cement concrete or asphaltic concrete over a prepared subbase, or eight (8) inches of hot mix asphalt over a prepared subbase in accordance with designs and specifications and at grades approved by the city. Where a surface width of more than thirty-one feet (31'), inclusive of curbs and gutters, is required the cost of the additional surface width, which shall be assumed to be the center portion of the roadway surface, may be paid by the city. On collector and thoroughfare streets where a high standard or greater thickness of street

surfacing is deemed necessary by the city council than is herein required, the additional cost may be borne by the city. All paving is to commence one (1) year after the installation of all utilities. The minimum paving width shall be thirty-one feet (31') from back of curb to back of curb. Paving thicknesses less than the above minimums may be allowed by the city, subject to proof of material strength and soil compaction ratios.

3. Curb and Gutter. The subdivider shall install curb and gutter on all streets in the plat being dedicated for public use. All curb and gutter shall be constructed of Portland cement concrete, and shall conform to the standards and specifications of the city.
4. Sidewalks. The planning and zoning commission may, when deemed necessary, require the subdivider to provide concrete sidewalks, at least four feet (4') wide, along each lot frontage. Such sidewalk will not need to be constructed until completion of site grading and construction on the lot, but shall be constructed prior to the occupancy of the structure. All improvements shall conform to the standards and specifications of the city.
5. Sanitary Sewers. The subdivider shall provide the subdivision with a complete sanitary sewer system including all necessary pumping stations, force mains, pumping equipment, and other appurtenances, which shall connect with a sanitary sewer outlet or treatment facility approved by the city council. The sewers shall extend to the subdivision boundaries as necessary to provide for the extension of the sewers by adjacent property. The subdivider shall provide each lot with a service connection extended from the main to the lot line. Lot services shall be at least eight feet (8') deep at curb line as measured from the top of curb. When oversized sanitary sewers are required to serve other areas of the watershed, the additional cost may be borne by the city or assessed on an area basis to the properties served. All improvements shall conform to current city standards and specifications. Where sanitary sewers are not available, other facilities, as approved by the city council and appropriate state agency as set forth in the Iowa Administrative Code and any amendment thereto, must be provided for the adequate disposal of sanitary waste. As part of the preliminary and final plat requirements, a report prepared by a professional engineer shall be submitted detailing plans for the disposal of wastewater for the development. The soil condition limitations or proximity to a ditch, stream, pond, lake, natural or artificial water way, county drain tile, surface water drain tile, or groundwater may result in additional requirements imposed by the city. In no case, will any underground waste disposal systems be allowed in the floodplain.
6. Water Supply. The subdivider shall provide the subdivision with a complete water main supply system including hydrants, valves, and other appurtenances which shall be extended into and through a water connection for each lot, and shall be connected to the city water system. Where oversized water mains are required to serve other areas of the watershed, the additional cost may be borne by the city or assessed on an area basis to the properties served. All water system improvements, including water hydrants, shall be uniform throughout the subdivision and shall conform to the standards and specifications of the city. Where a public water supply is not within a reasonable distance or otherwise unavailable the subdivider shall normally be required to construct a similar water distribution system and connect it with an alternate water supply approved by the city council and county environmental health officer.
7. Storm Water Drains. The subdivider shall at the subdivider's expense provide the subdivision with adequate disposal of storm waters, including but not limited to drains, ditches, culverts, retention ponds, stormwater basins, complete bridges, storm sewers, intakes, and manholes to

provide the collection and removal of all surface waters and to maintain natural drainage courses. These improvements shall extend to the boundaries of the subdivision to provide for extension to adjoining properties. Where oversized stormwater sewers or drainage structures are required to serve other areas of the watershed, the additional cost may be borne by the city or assessed on an area basis to the properties served. All improvements shall conform to current city standards and specifications. No water course shall be altered to divert surface drainage from one watershed to another. Storm water generated within a subdivision shall be contained within the subdivision unless specifically directed to a drainage way or other natural water course. Storm sewers are to be located, to the greatest extent possible, within that portion of the right-of-way outside of the paved or surfaced roadway.

8. Utilities. All utility lines will be installed underground. The subdivider shall be responsible for making the necessary arrangements with the utility companies for installation of such facilities. Utilities shall be provided in front lot easements or within the public right-of-way. When utilities are installed in street rights-of-way (water mains, gas mains, etc., and all service connections), all the in-street underground work shall be completely installed and approved through the length of the street and across the flat section before any pavement base is applied.
9. Other Improvements. The city council reserves the right to require other infrastructure, landscaping, or physical improvements upon review of the final plat.
10. City Participation. Nothing in this section shall be construed to prevent the City of Estherville, Iowa, from furnishing financial assistance in subdivision development under criteria established by Chapter 15-A of the Code of Iowa if any improvements financed thereby shall be dedicated to and owned by the city.

All the above improvements shall be made in accordance with good engineering practices and the accepted practices, regulations and ordinances of the city; and shall have the approval of the public works department, city staff, city engineer, fire chief or any other public officer under whose department the installation of utilities and infrastructure may be affected. Sanitary sewer systems and/or individual septic tanks may be subject to approval by the county environmental health officer and the Iowa Department of Natural Resources.

SECTION 7.4. SPECIFICATIONS.

The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the city for like work. Two (2) sets of plans and specifications shall be submitted to the city for approval prior to construction, and construction shall not be started until plans and specifications have been approved.

SECTION 7.5. AS-BUILTS.

The subdivider shall furnish the city with as-built drawings at the completion of the installation of utilities.

SECTION 7.6. FINAL COMPLETION AND ACCEPTANCE.

The subdivider shall be responsible for the installation and/or construction of all improvements required by this ordinance, and shall warrant the design, material, and workmanship of such improvements, installation and/or construction for a period of two (2) years from and after completion. Such warrant shall be by bond or other acceptable collateral; shall be subject to review by the city attorney; shall specifically assure the expedient repair or replacement of

defective improvements under warranty; and shall indemnify the city from all costs or losses resulting from or contributed to, such defective improvements. Before the city council approves the final plat, all the foregoing improvements shall be constructed and accepted by formal resolution of the city council. Before passage of said resolution of acceptance, the city engineer shall report that said improvements meet all city specifications and ordinances or other requirements and agreements between the subdivider and the city. All the above improvements shall, upon their completion, inspection, approval, and acceptance by the city council, become the property of the city.

SECTION 7.7. GUARANTEE.

This completion of improvements requirement may be waived if the subdivider will post a performance bond or certified check with the city guaranteeing said acceptance of the plat. However, if a performance bond is posted, final acceptance of the plat will not constitute final acceptance by the city of any improvements to be constructed. Improvements will be accepted only after their construction is completed and no public funds will be expended in the subdivision until such improvements are completed and accepted by the city. If a performance bond is posted, such bond shall be subject to review by the city attorney prior to acceptance. The subdivider shall specifically assure the expedient installation and completion of all improvements within the specified construction time and shall indemnify the city against all costs or losses from development and construction. The city council may waive the requirements of this ordinance for the construction and installation of some or all improvements in cases of dedications of land or rights-of-way to public use where such dedication is more than the needs of the subdivision and is desired by a public agency in lieu of a purchase or condemnation.

SECTION 7.8. IMPROVEMENTS WITHIN EXTRATERRITORIAL JURISDICTION.

Improvements within the two (2) mile extraterritorial jurisdiction area shall be the same as required above, provided they are not less than that required by the county subdivision policy, and provided further that all road and drainage construction plans shall be approved by the county engineer, and the county board of supervisors shall accept completed roads for public maintenance.

ARTICLE 8. PUBLIC SPACE DEDICATIONS

Article 8: Public Space Dedications

Section 8.1. Park, Open Space & Public Use Dedications

Section 8.2. Other Public Space Regulations

SECTION 8.1. PARK, OPEN SPACE & PUBLIC USE DEDICATIONS.

In a new subdivision, the city council may require the dedication or reservation of such public open space within the proposed subdivision.

SECTION 8.2. OTHER PUBLIC SPACE REGULATIONS.

1. Public open spaces, wherever possible, shall be located contiguous to other such areas in adjacent subdivisions to provide for maximum use of the resulting area. Such areas shall be shown on the preliminary plat. The city council may not approve a site which is undesirable for such public or civic uses.
2. If the city requires a public open space within the proposed subdivision, the subdivider shall reserve the area in excess of the dedication requirement for purchase by the appropriate public agency within one (1) year from the endorsement date of the final plat. The purchase price of such land shall be equivalent to the value of said land as established by an independent appraiser. After such time, the subdivider may replat such property for the subdivider's own purposes.
3. Natural features, historic sites, and similar community assets shall be preserved in parks and open spaces within the subdivision.

ARTICLE 9. ADMINISTRATION & ENFORCEMENT

Article 9: Administration & Enforcement

- Section 9.1. Fees
- Section 9.2. Variances
- Section 9.3. Enforcement and Penalties
- Section 9.4. Changes and Amendments
- Section 9.5. Severability Clause
- Section 9.6. Repealer

SECTION 9.1. FEES.

The city council shall establish fees, by resolution, for review of each subdivision plat submitted. No fees shall be charged for public land subdivision plats submitted by any governmental entity or plats of property reserving or dedicating land to the city provided no other subdivision of land is shown thereon.

SECTION 9.2. VARIANCES.

Where the strict application of standards or requirements of this ordinance would result in substantial hardships or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the planning and zoning commission may recommend and the city council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this policy. However, such variance, modification or waiver shall be in harmony with the intended spirit of this ordinance and granted with the view toward protecting the public interest and welfare, and will not have the effect of nullifying the intent and purpose of this ordinance. In granting any variance, the city council may prescribe appropriate conditions and safeguards. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance. In no case, shall any variance or modification be more than the minimum easing of the requirements and in no instance shall conflict with any zoning ordinance. A public hearing is required prior to granting a variance.

SECTION 9.3. ENFORCEMENT AND PENALTIES.

In addition to other remedies and penalties prescribed by law, the provisions of this ordinance shall not be violated. No plat or subdivision in the city or within two (2) miles thereof shall be recorded or filed with the county auditor or county recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this ordinance and has been approved by the city council as prescribed herein. No zoning permits shall be issued for any structure located on a lot in any subdivision, the plat of which is prepared after the effective date of this ordinance, which is not approved in accordance with the provisions contained herein. No public improvements over which the city council has control shall be made with city funds, nor shall any city funds be expended for street maintenance, street improvements, or other services in any area that has been subdivided after the date of adoption of this ordinance unless such subdivision and streets are approved in accordance with the provisions of this ordinance and the public improvements accepted by the city council.

It shall be unlawful for the owner, or the owner's agent, who knowingly or with intent to defraud, transfer, dispose or sell or agrees to sell or negotiates to sell such land before such plat has been approved, acknowledged and recorded as provided by this ordinance and Chapter 354, Code of Iowa, shall forfeit and pay a penalty of not less than \$100 per day and not more than \$500.00 per day for each lot so transferred, disposed of, leased or offered for sale. Each day that the violation occurs shall be deemed a separate offense. Additionally, any building erected in violation of this ordinance shall be deemed an unlawful structure and the zoning administrator or city clerk may bring action to enjoin such erection or cause it to be vacated or removed.

Since paving is to commence one (1) year after the installation of all utilities, building permits may be issued for lots along unpaved streets provided the subdivider shall place a temporary gravel surface on all unpaved streets. The gravel surface shall be in accordance with current city specifications, and shall not be construed to satisfy the requirement of Section 6.2 of this ordinance.

SECTION 9.4. CHANGES AND AMENDMENTS.

Any provisions of this ordinance may be changed and amended from time to time by the city council, provided such amendments shall not become effective until the city council has received a recommendation from the planning and zoning commission. The commission shall report within thirty (30) days after which the council shall give notice of and hold a public hearing on the proposed amendment. Such notice shall be published in a newspaper of general circulation no less than four (4) and no more than twenty (20) days prior to such hearing. The amendment shall become effective from and after its adoption and required publication.

SECTION 9.5. SEVERABILITY CLAUSE.

Should any section or provision of this ordinance be declared by the courts to be invalid or unconstitutional for any reason whatsoever, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

SECTION 9.6. REPEALER.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. The repeal of said ordinance shall not have the effect to release or relinquish any penalty, forfeiture or liability incurred under said ordinance or any part thereof. Nothing contained herein shall serve to abrogate, limit, repeal, or otherwise modify any other ordinance or regulation except as expressly set forth herein. If any provision of this ordinance conflicts with the provisions of any other ordinance, regulation, or statute, the most restrictive applies.

ARTICLE 10. EFFECTIVE DATE

SECTION 10.1. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its adoption and publication as required by law and as provided for in Chapter 380.6 and 380.7 of the Code of Iowa.
(Code of Iowa, Sec. 380.6[1]; Sec. 380.7[3]; and Sec. 362.3)

ADOPTION

SUBDIVISION REGULATIONS ORDINANCE OF ESTHERVILLE, IOWA

Passed and approved the first consideration on _____, 2017

Passed and approved the second consideration on _____, 2017

Passed and approved the third and final consideration on _____, 2017

Adopted on _____, 2017

Published on _____, 2017

Mayor, City of Estherville

ATTEST:

Estherville City Clerk